

Brownfields Advisory Committee (BAC)
DNREC's New Castle Field Office
391 Lukens Drive
New Castle, Delaware
Dec. 6, 2012*
Meeting Minutes

Attendees:

Neeraj Batta, Batta Environmental
Todd Coomes, Richards, Layton & Finger
Clay Greer, Ten Bears
Angelo Fatiga, Pennoni
Kathy Fox, EA Engineering
Kevin Hansen, JCM Environmental
Stephanie Hansen, YCST
Rep. Deb Heffernan
Karl Kalbacher
David Kane, Tetra Tech
Nora Lober, Pennoni
Lynn Poling, Lewis Environmental
Kris Saum, ERM
Doug Seavey, JCM Environmental
Bill Smith, Environmental Alliance
Bill Stephens, STEPHENS Environmental
Chris Whallon, Duffield

DNREC

Marjorie Crofts
Melissa Leckie
Jill Hall
Robert Newsome
Jim Poling
Tim Ratsep
Qazi Salahuddin
Stephanie Scholl
Paul Will
Christina Wirtz

DOJ

Keith Brady

*Note information regarding the Sept. 6 meeting is available online at:

<http://www.awm.delaware.gov/BAC/Pages/BACMeetings.aspx>

Introductions and Opening Remarks –Tim Ratsep welcomed members.

Approval of Sept. 6 Meeting Minutes – The meeting minutes were unanimously approved.

Executive Order 36 – Regulatory Review and Comment – Marjorie Crofts reviewed EO 36 and asked for comments on any DNREC Regulation. No comments were received.

Delaware Environmental Navigator (DEN) – Marj asked for feedback on problems with DEN. Common problems were reported. BAC members suggested forming a new IT subcommittee to address the problems (see below). Marj will coordinate having a representative from DNREC's IT group.

Updates for SIRS:

- **New HSCA Screening Table** – Qazi Salahuddin and Stephanie Scholl presented information on the new HSCA screening table. This will replace the URS standards for screening purposes only. Marj will share the new screening table with Kathy Stiller, Director of the Division of Water.
- **Status of Draft HSCA Guidance Document** – Qazi indicated that the guidance document was 60-80% complete.
- **Brownfields Legal Issues** – Jim Poling and Keith Brady discussed two legal issues:

- 1) At the end of the Brownfields Investigation phase, the brownfields developer can do some remedial actions at their own risk. This should really be pushed back to the end of the comment period.
 - 2) After the transfer of property to a brownfields developer, the owner/operator wants to stay at the facility and rent from to the developer. This is strictly not allowed after the brownfields developer takes title to the property. Further, there should be no affiliation between the owner/operator and a tenant or new brownfields developer.
- **Draft Division-wide Policy for Ability to Pay** – USEPA, ATSWMO, and DNREC-TMS all working on a more uniform policy for ability to pay. Melissa Leckie will coordinate an ability to pay policy for SIRS and TMS.

Brownfield Subcommittee Report Outs:

- **Brownfields Finance Subcommittee – Clay Greer (Chair)**

Stephanie Hansen, Dave Kane, Thomas Kovach, Mark Lannan, Melissa Leckie, Jim Poling, Tim Ratsep, Bill Smith, and Chris Whallon

The subcommittee developed a list of ten factors or criteria in determining brownfields certification: age of facility; current usage; marketability; length and reason of time vacant or abandoned; prior usage/environmental investigations/regulatory history; reuse/redevelopment plan; economic/community benefit; location (in targeted growth area enterprise zone or census tract of concern); surrounding area. See “Brownfields Certification Factors” handout for details. The subcommittee would like to have comments on the ten criteria by Dec. 31. The subcommittee also noted that the GMZ/GEZ policy was finalized - see “Final GMZ/GEZ Policy” at BAC meeting website: <http://www.awm.delaware.gov/BAC/Pages/BACMeetings.aspx>

- **Regulatory Subcommittee (changes to Chapters 74, 74A, 79 & 91) – Alex**

Rittberg/Tim Ratsep (Contacts), Todd Coomes, Clay Greer, Stephanie Hansen, Karl Kalbacher, Todd Keyser, Mark Lannan, Melissa Leckie, Lynn Poling, Jim Poling, Doug Seavey, Bill Smith, Bill Stephens and Chris Whallon

Alex Rittberg gave a PowerPoint presentation that highlighted why changes to Chapters 74, 74A and 79 are needed for tank sites in bankruptcy proceedings. See “Tank Management Section Presentation” at BAC meeting website (see link above). Further discussion by the group included the draft lien legislation and draft golf course legislation. Drafts of proposed legislation available at BAC meeting website (see link above).

- **Proposed New Subcommittee: IT Subcommittee** This subcommittee will address issues such as problems with Delaware Environmental Navigator, SIRS site documents and other DNREC databases.

Next Meeting – The next meeting of the BAC will be held on March 7, 2013 at the Lukens office.